

EXHIBIT 5

UNITED STATES DISTRICT COURT
for the
Northern District of California

John Stemmelin, on behalf of)	
himself and all others)	
)	
)	
PLAINTIFF,)	
)	
)	
V.)	Civil Action No.
)	3:20-cv-04168-WHA
)	
Matterport, Inc.,)	
a Delaware Corp., et al.)	
)	
DEFENDANTS.)	

Sibyl Chen called by the Defendant for examination,
taken pursuant to the Federal Rules of Civil
Procedure of the United States District Courts
pertaining to the taking of depositions before
Lindsay Welbers , a notary public within and
for the County of Cook and State of Illinois, on
the 19th day of November, 2021, at the hour of 4 p.m. cdt.

REPORTED BY: LINDSAY WELBERS

STATE OF ILLINOIS Notary ID: 911623

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I N D E X

WITNESS:

PAGE

SIBYL CHEN

Examination by Ms. Harris

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<p style="text-align: right;">Page 8</p> <p>1 original CEO of Matterport. He is my, he was my first boss at 2 Matterport before I reported to Linda Itskovitz. And so the 3 only other person that I notified that I had been served was 4 Linda Itskovitz, and it was just informative, just to let them 5 know. 6 SHARON HARRIS: And did you talk to Matt Bell over 7 the telephone or was it an email? 8 SYBIL CHEN: It was a quick call, it was like a two 9 minute call letting him know. 10 SHARON HARRIS: What did he tell you about it? 11 SYBIL CHEN: He advised that I should contact Judy 12 Audison and then the following morning, Judy, I guess, or 13 Michael reached out. So I think Matt and Ben contacted Judy 14 before I could reach out and therefore I have heard from 15 Matterport counsel before I even had an opportunity to reach 16 out. That was what I wanted to know, which is what should I 17 do? And it became apparent very quickly. 18 SHARON HARRIS: And you said you also spoke with 19 Linda Itskovitz regarding the notice of subpoena dep, 20 deposition? 21 SYBIL CHEN: Yes, I let her know that I was served. 22 SHARON HARRIS: And what did she tell you? 23 SYBIL CHEN: She let me know she was also served. 24 SHARON HARRIS: And did she, did you learn anything</p>	<p style="text-align: right;">Page 10</p> <p>1 SYBIL CHEN: Yes. 2 SHARON HARRIS: And did you look for those documents? 3 SYBIL CHEN: I have zero documents, since the time 4 that I left Matterport. I have no documents in my possession. 5 So it made it easy to, I did a quick search on my Google Drive 6 and it turns out, it confirmed what I knew before which is I 7 left Matterport without any documents, as is common practice 8 not to leave your employer with documents. So... 9 SHARON HARRIS: Did you go to college? 10 SYBIL CHEN: I did. 11 SHARON HARRIS: Where did you go and did you 12 graduate? 13 SYBIL CHEN: Yes. I went to the University of 14 California Berkeley and I graduated with a bachelor's. 15 SHARON HARRIS: In what year was that? 16 SYBIL CHEN: 2001. 17 SHARON HARRIS: Do you have any other degrees? 18 SYBIL CHEN: I do, I also went to Johns Hopkins 19 University for a master's degree in international relations. 20 SHARON HARRIS: And what year did you get that 21 degree? 22 SYBIL CHEN: 2004. 23 SHARON HARRIS: And what year did you first start 24 working for Matterport?</p>
<p style="text-align: right;">Page 9</p> <p>1 from her that you didn't already know? 2 SYBIL CHEN: We have not discussed the case besides 3 talking about, I said I was trying, it was very early. It was 4 right after I had been served, I believe and I was just 5 letting her know that I plan on working with Michael. And that 6 was the nature of our call. 7 SHARON HARRIS: And did she say she was going to do 8 the same? 9 SYBIL CHEN: Well, I think she was contemplating, she 10 said something to the effect of she was going to come chat 11 with her, with a, her friend or something to find out. I think 12 she's trying to figure it out. 13 SHARON HARRIS: And did you review any documents in 14 preparation for today? 15 SYBIL CHEN: I reviewed the document that was shared 16 with me, the one that was served to me, the amended version 17 that was emailed to me by Michael Johnson. 18 SHARON HARRIS: And you're referring to the notice of 19 subpoena deposition - - 20 SYBIL CHEN: Correct. 21 SHARON HARRIS: And it noted that's set up for today? 22 SYBIL CHEN: Correct. 23 SHARON HARRIS: And did you look at the rider to the 24 deposition subpoena that was seeking documents?</p>	<p style="text-align: right;">Page 11</p> <p>1 SYBIL CHEN: I started working for Matterport in, 2 gosh it was 2000... If you give me two seconds, I can pull it 3 up on my LinkedIn profile and give you an exact year and be 4 very precise. I started at Matterport in August of 2015. 5 SHARON HARRIS: And what was your job title when you 6 first started working for Matterport? What were you hired as? 7 SYBIL CHEN: I was originally hired as one of two 8 hires to build out the entertainment media division for 9 Matterport and the title was something to the effect of senior 10 manager. And then ultimately, if you looked on my LinkedIn 11 profile I ultimately was the director of partner development 12 and marketing. But originally, I was, I believe, a senior 13 manager for the entertainment media division. 14 SHARON HARRIS: Yes I did look at your LinkedIn 15 resume and it said you were a director of partner development 16 and marketing. Is that correct? 17 SYBIL CHEN: Yes, correct. That was the title that I 18 ended up having, my, yeah, for the majority of my time there. 19 SHARON HARRIS: And when did you leave Matterport? 20 SYBIL CHEN: August 2018. 21 SHARON HARRIS: And why did you leave Matterport? 22 MICHAEL JOHNSON: Objection, calls for personal and 23 private information, and it's not relevant to the case. 24 SYBIL CHEN: I left, I was looking to make a career</p>

<p style="text-align: right;">Page 12</p> <p>1 change and wanted to take some time off. So I traveled for a 2 little while. 3 SHARON HARRIS: So you resigned from your position in 4 2018? 5 SYBIL CHEN: Yes. 6 SHARON HARRIS: Can you describe what your job duties 7 were when you worked for Matterport? 8 MICHAEL JOHNSON: Objection, the question is 9 overbroad. You can answer it. 10 SHARON HARRIS: I was hired to initially help build 11 out the entertainment and media division. That role, that 12 division ended up winding down and then I ended up working in 13 marketing team, during which I spent a majority of my time 14 focusing on PR, content marketing, and video content creation. 15 SHARON HARRIS: Did you have any responsibility for 16 supervising other employees? 17 SYBIL CHEN: For the most part, no, not until about 18 the last four months or so that I was at Matterport and then 19 at that point, I did supervise one person who was the event 20 marketing person at Matterport. 21 SHARON HARRIS: What was that person's name? 22 SYBIL CHEN: Allison Xuereb. 23 SHARON HARRIS: How do you spell her last name? 24 SYBIL CHEN: X-U-E-R-E-B.</p>	<p style="text-align: right;">Page 14</p> <p>1 all customers, not only to MSPs. So it was not, it was not 2 specific to MSPs, no. 3 SHARON HARRIS: And you said it was promotional video 4 for Matterport camera. Do you recall which camera? 5 SYBIL CHEN: It was the first promo video that I 6 recall that Matterport ever had that was promoting the 7 original Matterport camera. Subsequently we also, I also 8 produced the video that was promoting the Matterport Pro2. 9 SHARON HARRIS: Any other videos that you produced 10 while you were there at Matterport? 11 SYBIL CHEN: There were 10 or so how-to videos. They 12 were technical in nature and they were stuff like how to turn 13 on the camera, how to edit the, a scan, how to upload your 14 scan, how to share a scan, that kind of stuff. So there was a 15 series of about 10 videos that we released to YouTube. 16 SHARON HARRIS: Were they very long videos? 17 SYBIL CHEN: There were two minute or so on average, 18 based on my recollection. 19 SHARON HARRIS: Did you have any other 20 responsibilities or duties with respect to the MSP program? 21 MICHAEL JOHNSON: Objection, question assumes facts, 22 it's argumentative. 23 SYBIL CHEN: Responsibilities as pertains to MSP, my 24 responsibilities were not at all specific to the MSP program.</p>
<p style="text-align: right;">Page 13</p> <p>1 SHARON HARRIS: I'm sorry, one more time, please. 2 SYBIL CHEN: X as in xylophone, U-E-R-E-B. 3 SHARON HARRIS: Thank you. And what was her job 4 title? 5 SYBIL CHEN: She was the event marketing manager, to 6 the best of my recollection. 7 SHARON HARRIS: While you were at Matterport did you 8 work with Linda Itskovitz? 9 SYBIL CHEN: I did. She was my boss. 10 SHARON HARRIS: Did you report to anyone else? 11 SYBIL CHEN: Yes, I had five bosses while I was at 12 Matterport. 13 SHARON HARRIS: Can you list them for me? And if you 14 could tell me their titles. 15 SYBIL CHEN: I worked for Matt Bell, CEO. I worked 16 for Linda Itskovitz, VP marketing. I worked for Bill Brown, 17 CEO. I worked for Chris Bell, CMO. Yeah, actually four, four 18 bosses. 19 SHARON HARRIS: Did you have any role in the 20 advertising and marketing of the Matterport Pro Cameras, the 21 cloud services, or the Matterport Service Partner Program? 22 MICHAEL JOHNSON: Objection, compound. 23 SYBIL CHEN: I had a hand in creating promotional 24 video for the camera, which was used to promote the camera to</p>	<p style="text-align: right;">Page 15</p> <p>1 My role was to, the majority of my time at Matterport was on 2 the marketing team and it was generalized to general content 3 marketing, as it pertained to all customers. I was never 4 focused on MSP. So I would say I also managed, I focused a lot 5 of time on PR, so I manage the PR firm on retainer, so, but it 6 was not specific to MSP, no. 7 SHARON HARRIS: Just so I understand, it it fair to 8 say that your marketing was mainly focused on the cameras? 9 SYBIL CHEN: It was, so marketing for any company, is 10 you're often marketing your product to a specific customer 11 segment. So I was marketing the camera, our main product, to 12 all customer segments. So yeah, if that clarifies. So I'm 13 making the statement that it was not specific to any one 14 customer segment. Sometimes I create content specific to 15 certain customer segments. But it was generally, most of the 16 time it was general to all customers. 17 SHARON HARRIS: So you don't recall ever making 18 anything specifically just for the MSP program. 19 SYBIL CHEN: For the MSP program, part of the content 20 marketing that I might have done that would have been specific 21 to MSP might have been blog content. 22 SHARON HARRIS: Okay. And how would you describe that 23 blog content? And I'll start with that, first. How would you 24 describe that blog content?</p>

<p style="text-align: right;">Page 20</p> <p>1 SYBIL CHEN: While you're doing that, I'm going to 2 put a box under my computer so it's more elevated so I don't 3 have to crouch, I can have my computer at my eye level. 4 SHARON HARRIS: All right, you guys are ready? 5 SYBIL CHEN: Yes. 6 SHARON HARRIS: Is there anyone else in the room with 7 you right now? 8 SYBIL CHEN: No, the babysitter was moving with my 9 daughter and there's no one else in the room. 10 SHARON HARRIS: Who was in charge of the Facebook 11 Matterport Official User Group page? 12 SYBIL CHEN: I guess you could say I was, since I 13 created it, I was tasked with creating a forum. And that was, 14 I opted to do on Facebook. 15 SHARON HARRIS: Why did you decide to create the 16 Matterport Official User Group page on Facebook? 17 SYBIL CHEN: Why did I select that social media 18 channel? Because the majority of Americans have a profile. So 19 it's just easier to reach a broader audience. 20 SHARON HARRIS: My question was more like why did you 21 decide to create such a page to begin with? Not that why, not, 22 in general why did you decide to do that? 23 SYBIL CHEN: The company, as I understood it, felt 24 that it would be beneficial to have our customers across all</p>	<p style="text-align: right;">Page 22</p> <p>1 have been the two primary channels. 2 SHARON HARRIS: Okay, I would like to mark an 3 exhibit. I'm going to share my screen and I'd like to mark 4 this as Exhibit 1. Let's see if this works. Let me pull up the 5 document. I thought it would still be open. There it is. I'd 6 like to mark, this will be Exhibit 1 and I will email it 7 around after the deposition. So this is a screenshot of 8 matterport.com from the Wayback Machine taken on April 19th, 9 2017. Does this look familiar to you? 10 MICHAEL JOHNSON: Can you scroll through the whole 11 document so that I can see what it is and how many pages it 12 is. 13 SYBIL CHEN: So I was not, I don't believe I was on 14 the marketing team in April of 20, what year did you say? 15 2017? 16 SHARON HARRIS: April 19th, 2017. 17 SYBIL CHEN: Let me think when I transitioned? I - - 18 SHARON HARRIS: So you started in August of 2015. 19 SYBIL CHEN: So, after working for Matt Bell, I think 20 it must have been, in 2016 I think I was, I don't recall when 21 Matt left Matterport but I worked for Matt until his last day 22 at Matterport. And so whatever that last day was, I continued 23 to work on building out Matterport Gallery. So I've focused on 24 that for some time before making the full transition to</p>
<p style="text-align: right;">Page 21</p> <p>1 industries and segments, be able to connect with one another, 2 share ideas, share their scans that they're proud of, and just 3 create a sense of community, which is not unusual for most 4 companies that have a lot of customers. 5 SHARON HARRIS: And so some of the people on that 6 Facebook page were Matterport service partners, correct? 7 SYBIL CHEN: Correct. 8 SHARON HARRIS: So you would respond to Matterport 9 service partners when they posted on that Facebook page? 10 SYBIL CHEN: Correct. 11 COURT REPORTER: Sorry, would you repeat that? 12 SYBIL CHEN: Correct. 13 COURT REPORTER: Thank you. 14 SHARON HARRIS: Did you use any other social media in 15 your position at Matterport? 16 SYBIL CHEN: To communicate on behalf of the company? 17 SHARON HARRIS: Yes. 18 SYBIL CHEN: The social media channels are managed by 19 someone else in the marketing team if I recall. So really my 20 primary concern and our responsibility was to manage, to 21 manage, at least within the social media realm it was 22 Facebook. So I don't recall using other social channels. We 23 might have posted an occasional announcement to LinkedIn but I 24 don't recall using LinkedIn often and beyond that, those must</p>	<p style="text-align: right;">Page 23</p> <p>1 working for Linda. So I don't, I'm not sure. Maybe, maybe I 2 was working on the marketing team, but it might have, it must 3 have been right around that time. But I don't remember seeing 4 the page. 5 SHARON HARRIS: Do you remember when you started the 6 Matterport Official User Group page on Facebook? 7 SYBIL CHEN: I don't but if you look at news, you'll 8 find out. Whatever the first date is, is the first, is the 9 date that it was created. 10 SHARON HARRIS: Give me just a second. So I have a 11 post from Matterport Users Group by you on September 20th, 12 2017. It says as of today, Matterport has started an official 13 Facebook Matterport Official User Group. 14 SYBIL CHEN: Yeah, that would be it. 15 SHARON HARRIS: Does that sound right? 16 SYBIL CHEN: That sounds right. 17 SHARON HARRIS: So prior to that date, though, have 18 you been commenting on the Matterport user group page on 19 Facebook? 20 SYBIL CHEN: Sorry, the Matterport user group, there 21 are many user groups that are tied to Matterport the MSP 22 created so do you mean the Matterport Official User Group? 23 SHARON HARRIS: No there's one that's just called 24 Matterport User Group.</p>

<p style="text-align: right;">Page 32</p> <p>1 meeting of the board of directors?</p> <p>2 SYBIL CHEN: No, usually no. If she used anything,</p> <p>3 yeah, she never asked me to, I don't recall her asking me to</p> <p>4 provide her any information to use for, use for the board of</p> <p>5 directors. That's not to say that she might not have used</p> <p>6 stuff that we had talked about in a meeting. But I don't, she</p> <p>7 never asked me for any material.</p> <p>8 SHARON HARRIS: Have you ever heard anyone at</p> <p>9 Matterport mention a pilot project in San Francisco called</p> <p>10 Lions, Tigers and Bears?</p> <p>11 SYBIL CHEN: Lions, Tigers and Bears. I have not</p> <p>12 heard of a pilot called Lions, Tigers and Bears.</p> <p>13 SHARON HARRIS: Have you heard of any 3D scan pilot</p> <p>14 project by Matterport in San Francisco?</p> <p>15 SYBIL CHEN: I've heard of a pilot project, I was not</p> <p>16 aware that it was based in San Francisco.</p> <p>17 SHARON HARRIS: When Matterport announced the pilot,</p> <p>18 there was so much of the backlash by MSPs that Matterport</p> <p>19 announced within a matter of days, they were withdrawing it,</p> <p>20 is that correct?</p> <p>21 SYBIL CHEN: Sorry, say that one more time.</p> <p>22 SHARON HARRIS: Court Reporter If you read it back.</p> <p>23 COURT REPORTER: When Matterport announced the pilot,</p> <p>24 there was so much backlash by MSPs that Matterport announced</p>	<p style="text-align: right;">Page 34</p> <p>1 SHARON HARRIS: Okay, we're ready.</p> <p>2 COURT REPORTER: On the record.</p> <p>3 SHARON HARRIS: Ms. Chen, I just have one question</p> <p>4 about the pilot program we were just discussing. You said that</p> <p>5 you're trying to democratize and I just want to know what you</p> <p>6 meant by democratize.</p> <p>7 SYBIL CHEN: Well, I meant, I would define</p> <p>8 democratize as kind of scaling the business, making it easy</p> <p>9 for anyone to access scanning services.</p> <p>10 SHARON HARRIS: So you mean, okay, so anyone could</p> <p>11 use the scanning services, is that what you mean?</p> <p>12 SYBIL CHEN: I mean it in the, I'm trying to give a</p> <p>13 definition that, to kind of make it as clear and simple as</p> <p>14 possible. So I mean it in the sense that it's usually used</p> <p>15 like to help proliferate a product to help scale it to make it</p> <p>16 easier to use, access.</p> <p>17 SHARON HARRIS: Okay. I have no further questions.</p> <p>18 MICHAEL JOHNSON: I have no questions. Sybil, thank</p> <p>19 you. Before we go off the record, I do want to designate this</p> <p>20 deposition as confidential under the protective order. With</p> <p>21 the caveat that if plaintiff's counsel wants to use any part</p> <p>22 of his testimony in support of their motion, I'm more than</p> <p>23 happy to refer in advance to the designated as confidential.</p> <p>24 To make it as easy as possible because finding documents that</p>
<p style="text-align: right;">Page 33</p> <p>1 within a matter of days that they were withdrawing it, is that</p> <p>2 correct?</p> <p>3 SYBIL CHEN: I don't know. That was not, I recall</p> <p>4 there being a pilot, I was not involved in the pilot in any</p> <p>5 way, shape or form. So I don't recall there, I don't recall</p> <p>6 there being a backlash, also, because I was in the dark about</p> <p>7 what the pilot was or when it was happening or where it was</p> <p>8 happening. So I don't remember a backlash.</p> <p>9 SHARON HARRIS: So you don't remember what the pilot</p> <p>10 project was about?</p> <p>11 SYBIL CHEN: I have a vague recollection of what the</p> <p>12 pilot was about. But I do not have any specifics. Because I</p> <p>13 was not involved in the pilot, in any way, shape, or form.</p> <p>14 SHARON HARRIS: And what was your vague recollection</p> <p>15 of what the pilot was?</p> <p>16 SYBIL CHEN: The pilot was to understand if</p> <p>17 Matterport could potentially democratize scanning services.</p> <p>18 They wanted to test out what that might look like, what</p> <p>19 mechanisms would have to be in place to help democratize 3D</p> <p>20 scanning. And beyond that, I don't know what they were</p> <p>21 actually doing to make that happen.</p> <p>22 SHARON HARRIS: Okay, I want to take a break right</p> <p>23 now and go over my notes. So can we go off the record please?</p> <p>24 MICHAEL JOHNSON: Ready to go.</p>	<p style="text-align: right;">Page 35</p> <p>1 are sealed is very difficult.</p> <p>2 SHARON HARRIS: Thank you for your time, Miss Chen.</p> <p>3 SYBIL CHEN: Thank you.</p> <p>4 TOM ZIMMERMAN: We're gonna order, Jason Hill is</p> <p>5 going to take care of ordering, Jason's firm is, so.</p> <p>6 COURT REPORTER: So yes, for you, Mr. Zimmerman. Yes,</p> <p>7 for you, Mr. Hill.</p> <p>8 MICHAEL JOHNSON: No, we're together, we're together.</p> <p>9 We both represent the plaintiff. Jason Hill is going to order</p> <p>10 for - -</p> <p>11 JASON HILL: So for the reporter, please send an</p> <p>12 invoice to my firm to J Hill. At C-K-S-L-A-W law dot com. C</p> <p>13 is in cat, K as in kite, S as in Sam, law dot com. And then</p> <p>14 also please, for the same invoice, please send to B Valdez,</p> <p>15 Bridgette Valdez. So it's a B and then Valdez, V-A-L-D-E-Z at</p> <p>16 CKSLaw.com, same email domain. And then we would probably want</p> <p>17 this expedited. And please do that for us. And then we will,</p> <p>18 once we get the invoice we will get payment to you.</p> <p>19 COURT REPORTER: Alright, when you say expedited, do</p> <p>20 you have a date in mind?</p> <p>21 JASON HILL: Well, we have a certification motion on</p> <p>22 the 22nd or 23rd of December. So you know, we would like to</p> <p>23 have the testimony transcribed hopefully by the next week or</p> <p>24 so.</p>